



Agenda Item Number: \_\_\_\_\_

## **BERNALILLO COUNTY BOARD OF COUNTY COMMISSIONERS**

**Meeting Date:** March 28, 2006

**Department:** Zoning, Building and Planning **Staff Contact:** Mari Simbaña, Program Planner

**TITLE:** APPEAL: Special Use Permit (CSU-60005/CO-60002)

### **COUNTY PLANNING COMMISSION RECOMMENDATION:**

Denial

#### **SUMMARY:**

At the February 1, 2006 public hearing, the County Planning Commission (CPC) voted (4-0) to recommend denial of the request for a Special Use Permit for a Specific Use for a Wireless Telecommunication Facility (extend monopole from 40 to 65 feet) on Tract C, located at 10321 Holly Avenue NE, on the northwest corner of Holly Avenue and Eubank Boulevard, zoned A-1, and containing approximately .50 acres. The decision was based on six (6) Findings (See Attachment 1, Notice of Decision).

The initial application requested a change in the existing Special Use Permit, to raise the monopole by 25 feet. The agent's justification letter (Response to Resolution 116-86) states that by improving the wireless telecommunications service, "public safety and emergency communications will be significantly improved for the area by having the wireless telecommunications infrastructure that is able to connect to E-911 centers and other essential public service." The agent has also submitted a Special Project Review application to amend the Paseo Del Norte/North Albuquerque Acres Sector Development Plan, as is the requirement when applying for a Special Use Permit within North Albuquerque Acres.

The North Albuquerque Area Community Association president and an adjacent property owner spoke in opposition, stating that the extension of the use was inappropriate. The CPC determined that the proposed extension of 25 feet, conflicts with the zoning ordinance. The additional 25 feet proposed for the existing monopole would make it stand out even more and moves it farther away from complying with the regulation for these types of facilities in the A-1 zone. Specifically, the Wireless Telecommunications Regulations (Section 22.5 Zoning Ordinance) do not allow wireless telecommunications facilities within 1/8 mile of the Paseo del Norte, a designated view corridor. Furthermore, the agent did not provide any letters of support from neighborhood residents as required by Section 18.B2.32 of the Zoning Ordinance. These were the main factors in denying the request.

In the appeal application, the agent claims that the County Planning Commission was in error in denying the request because it ignores Section 22.5 of the Zoning Ordinance which prioritizes collocation of facilities. The agent maintains that the request is consistent with Bernalillo County ordinances because the proposal is to extend an existing monopole rather than build a new structure. Additionally, the agent believes that Bernalillo County is compromising the health, safety, and welfare of residents by denying increased range of service, which is essential in emergency situations.

## **Criteria for Evaluating Zone Map Changes and Special Use Permit Applications**

Resolution 116-86 states that the applicant must demonstrate that the existing zoning is inappropriate because:

1. there was an error when the existing zone map was created; or
2. changed neighborhood or community conditions justifies a land use change; or
3. a different land use category is more advantageous to the community, as articulated in the Comprehensive Plan or other County Master Plan, the even though (1) and (2) above do not apply.

### **ATTACHMENTS:**

### **PAGE**

- |   |    |
|---|----|
| 1. County Planning Commission Notice of Decision Letter<br>(February, 3 2006) | 3  |
| 2. County Planning Commission Information Packet.                             | 7  |
| 3. Appeal application and justification.                                      | 46 |
| 4. County Planning Commission February minutes.                               | 52 |

## **STAFF ANALYSIS SUMMARY**

### **ZONING, BUILDING & PLANNING DEPARTMENT:**

Staff Recommends Denial of Appeal.